

Total mortality means the actual percentage of eligible tree or eligible vine losses on a given individual stand.

(c) The definitions set forth in this section shall be applicable for all purposes of administering the Tree Assistance Program. The terms defined in part 718 of this chapter shall also be applicable, except where those definitions conflict with the definitions set forth in this section.

§ 783.4 Program deadlines.

(a) A request for benefits under this part to reimburse for losses to eligible trees and eligible vines must be submitted to FSA at the local county office by close of business on Friday, September 26, 1997.

(b) All related and supporting documentation shall be submitted at the time the request for assistance is filed or no later than September 30, 1997.

(c) The State committee shall allow the county committee to approve late-filed requests received after the enrollment period ends, but no later than September 30, 1997. Late-filed requests will be accepted only for those owners who applied late due to circumstances beyond their control as determined by the county committee and concurred with by the State committee.

(d) The State committee may approve an extension, not to exceed 24 months beyond the date of application, to complete TAP practices if delays are determined to be beyond the control of the applicant.

§ 783.5 Ownership, income and payment limitations.

(a) An eligible owner must:

(1) Own less than 500 acres of each type of eligible tree or eligible vine, regardless of their size or condition, which produce annual crops for commercial purposes, or are grown for harvest for commercial purposes; and

(2) Have owned the eligible trees or eligible vines at the time the natural disaster occurred and continuously until the application for TAP benefits is submitted.

(b) No person, as defined in part 1400 of this title, as applicable, with an annual gross revenue in excess of \$2.5 million for the 1996 tax year will be eligible for TAP benefits.

(c) The amount of payments which any person, as determined in accordance with part 1400 of this title, may receive under this part in connection with losses of eligible trees and eligible vines, shall not exceed \$25,000.

(d) An owner who acquires eligible trees or eligible vines from a previous owner approved for 1997 TAP shall not receive additional program benefits due to an increase in the number of persons associated with the new ownership. A new owner is allowed to receive TAP benefits not paid to the previous owner if the new owner:

(1) Acquires ownership of land or trees for which TAP benefits have been approved;

(2) Meets the income and payment limitation under this part;

(3) Agrees to complete all practices which the original owner has not completed; and

(4) Agrees to receive any remaining payments and assumes full responsibility for all provisions of TAP, including refund of payments made to the previous owner, if necessary.

(e) In the event the total amount of claims submitted under this part during the sign-up period exceeds the applicable funds available for such period, such payments shall be reduced by a uniform national percentage. Such payment reductions shall be applied after the imposition of applicable payment limitation provisions.

(f) Federal, State, and local governments and agencies and political subdivisions thereof are not eligible for benefits under this part.

§ 783.6 Qualifying loss.

(a) An eligible owner may receive assistance under this part for qualifying loss of eligible trees, eligible orchard tree seedlings, eligible vines or cuttings as determined by the Deputy Administrator for Farm Programs, FSA:

(1) Which were destroyed or injured as a result of a natural disaster, as determined by the county committee in accordance with the instructions of the Deputy Administrator; and

(2) For which the total mortality rate equals or exceeds 20 percent, after deducting the normal mortality the owner would have incurred.

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(b) Qualifying loss determinations shall be made on an individual stand basis. A qualifying loss shall be the loss for the individual stand of eligible trees, or eligible vines, as appropriate, after deducting the normal mortality of such trees or vines, equal to or in excess of 20 percent mortality.

(c) Qualifying losses of eligible trees or vines shall not include:

(1) Losses which could have been prevented through readily-available horticultural measures; or

(2) Losses of trees or vines which would normally have been rehabilitated or replanted within the 12-month period following the loss, in the absence of the natural disaster.

(d) When visible evidence of losses no longer exists on the site where the eligible trees or eligible vines were planted, acceptable evidence as determined in accordance with instructions issued by the Deputy Administrator must be established for the county committee to qualify the individual stand for the program.

§ 783.7 Eligible costs.

(a) Payments will be made only to the extent specifically provided for in this part. An eligible owner shall be reimbursed under this part, to the extent of the availability of funds, for an amount not to exceed 100 percent of the eligible costs of replanting or rehabilitating trees or vines, not in excess of the number of trees or vines constituting the qualifying loss. Such reimbursement may be based on average costs or the actual costs for the replanting, or rehabilitating practices, as determined by the Deputy Administrator. If the costs are to replace eligible trees or eligible vines, the costs reimbursed under this part shall only be for replacement seedlings or cuttings of a size and quality determined by Deputy Administrator to be sufficient for that purpose. The costs for which cost-sharing shall be permitted shall only be the costs of:

(1) The seedlings or cuttings, eligible tree or vine rehabilitation measures;

(2) Site preparation measures and debris handling measures that are normal cultural practices for the type of individual stand being re-established and

necessary to ensure successful plant survival;

(3) Chemicals and nutrients if needed to ensure successful plant survival; and

(4) Labor used to physically plant or rehabilitate such seedlings or cuttings as based on standard labor rates as determined by the county committee.

(b) Costs eligible for reimbursement under this part specifically exclude items such as fencing, irrigation, irrigation equipment, measures to protect seedlings from wildlife, and general land and eligible tree or vine stand improvements, and re-establishing structures and windscreens.

(c) When eligible trees or eligible vines are replanted instead of rehabilitated, the types planted may be different than those originally planted if the new types have the same general end use as determined by the county committee. Payments will be based on the lesser of rates established to plant the types actually lost or the cost to establish the trees or vines actually used. Eligible costs shall not include costs incurred for planting species of seedlings or cuttings differing significantly from the species of the seedlings or cuttings constituting the qualifying loss except as approved by the Deputy Administrator. If such substitution is approved, eligible costs shall be the lesser of:

(1) The actual eligible costs incurred; or

(2) The estimated eligible costs which otherwise would have been incurred to replant the species constituting the qualifying loss.

(d) Costs eligible for reimbursement under this part shall only include expenditures approved within the limits set by this part, including, but not limited to, those limits set forth in paragraph (a) of this section. Eligible costs include costs incurred before an application for payment is submitted. Eligible costs shall only include those costs for which the eligible owner has submitted documentation determined by the county committee to adequately document such costs. The county committee shall limit TAP payments for eligible costs at the minimum level to re-establish an individual stand, as determined by the State committee.